

7872--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

June 6, 2013

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Introduced by M. of A. NOLAN, ABINANTI, OTIS, TITONE, PAULIN -- read once and referred to the Committee on Education -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the release of personally identifiable information

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     Section 1. The education law is amended by adding a new section 2-c to  
2     read as follows:
- 3     S 2-C. RELEASE OF PERSONALLY IDENTIFIABLE INFORMATION.     1. DEFINI-  
4     NITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE  
5     FOLLOWING MEANINGS:
- 6     A. "PERSONALLY IDENTIFIABLE INFORMATION" SHALL HAVE THE SAME MEANING  
7     AS SUCH TERM IS DEFINED IN SECTION 99.3 OF TITLE 34 OF THE CODE OF  
8     FEDERAL REGULATIONS IMPLEMENTING THE FAMILY EDUCATION RIGHTS AND PRIVACY  
9     ACT, AS SUCH FEDERAL LAW AND REGULATIONS ARE FROM TIME TO TIME AMENDED.
- 10    B. "BIOMETRIC RECORD" SHALL HAVE THE SAME MEANING AS SUCH TERM IS  
11    DEFINED IN SECTION 99.3 OF TITLE 34 OF THE CODE OF FEDERAL REGULATIONS  
12    IMPLEMENTING THE FAMILY EDUCATION RIGHTS AND PRIVACY ACT, AS SUCH FEDER-  
13    AL LAW AND REGULATIONS ARE FROM TIME TO TIME AMENDED.
- 14    C. "SCHOOL" SHALL MEAN ANY PUBLIC ELEMENTARY OR SECONDARY SCHOOL,  
15    BOARD OF COOPERATIVE EDUCATIONAL SERVICES, PUBLIC SCHOOL KINDERGARTEN  
16    PROGRAMS, UNIVERSAL PRE-KINDERGARTEN PROGRAMS AUTHORIZED PURSUANT TO  
17    SECTION THIRTY-SIX HUNDRED TWO-E OF THIS CHAPTER, AND OTHER PUBLICLY  
18    FUNDED PRE-KINDERGARTEN PROGRAMS.
- 19    D. "STUDENT" SHALL MEAN ANY PERSON ATTENDING A SCHOOL IDENTIFIED IN  
20    PARAGRAPH C OF THIS SUBDIVISION.
- 21    E. "THIRD PARTY" SHALL MEAN ANY PERSON OR ENTITY OTHER THAN A SCHOOL  
22    DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, INSTITUTION OF

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD10977-06-3

1 HIGHER EDUCATION, SCHOOL AS DEFINED IN PARAGRAPH C OF THIS SUBDIVISION  
2 OR THE DEPARTMENT.

3 2. A PARENT OF A STUDENT, A PERSON IN PARENTAL RELATION TO A STUDENT,  
4 OR A STUDENT EIGHTEEN YEARS OF AGE OR OLDER MAY REQUEST THAT SUCH  
5 STUDENT'S PERSONALLY IDENTIFIABLE INFORMATION AND/OR SUCH STUDENT'S  
6 BIOMETRIC RECORD NOT BE DISCLOSED TO ANY THIRD PARTY. THE DEPARTMENT  
7 AND/OR ANY SCHOOL THAT RECEIVES SUCH REQUEST SHALL BE PROHIBITED FROM  
8 DISCLOSING SUCH INFORMATION TO ANY THIRD PARTY UNLESS SUCH DISCLOSURE IS  
9 REQUIRED BY LAW, PURSUANT TO A COURT ORDER OR SUBPOENA, FOR THE PURPOSE  
10 OF A STATE OR FEDERAL AUDIT OR EVALUATION TO AUTHORIZED REPRESENTATIVES  
11 OF ENTITIES IDENTIFIED IN SECTION 99.31 (A)(3) OF TITLE 34 OF THE CODE  
12 OF FEDERAL REGULATIONS IMPLEMENTING THE FAMILY EDUCATION RIGHTS AND  
13 PRIVACY ACT, OR IS NECESSARY DUE TO A HEALTH OR SAFETY EMERGENCY.

14 3. THE DEPARTMENT SHALL DEVELOP A FORM THAT SHALL BE USED FOR REQUESTS  
15 MADE PURSUANT TO SUBDIVISION TWO OF THIS SECTION. SUCH FORM SHALL BE  
16 MADE PUBLICLY AVAILABLE AND SHALL ALLOW SUCH INDIVIDUALS THE OPTION TO  
17 OPT-OUT OF DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION AND BIOME-  
18 TRIC RECORDS TO ANY THIRD PARTY OR TO CERTAIN TYPES OF THIRD PARTIES.  
19 THE DEPARTMENT IS AUTHORIZED TO IDENTIFY A LIST OF TYPES OF THIRD  
20 PARTIES THAT INDIVIDUALS MAY OPT-OUT OF DISCLOSURE OF SUCH INFORMATION  
21 AND RECORDS AND SUCH INDIVIDUALS MAY OPT-OUT OF DISCLOSURE OF SUCH  
22 INFORMATION AND RECORDS TO ANY TYPE AND/OR ALL OF THE LISTED THIRD  
23 PARTIES. SUCH LIST DEVELOPED BY THE DEPARTMENT SHALL NOT REQUIRE THE  
24 NAMES OF SUCH THIRD PARTIES TO BE LISTED. SUCH LIST MAY IDENTIFY THE  
25 TYPES OF SERVICES SUCH THIRD PARTIES PROVIDE.

26 4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE SHARING OF  
27 PERSONALLY IDENTIFIABLE INFORMATION AND BIOMETRIC RECORDS BY CHARTER  
28 SCHOOLS TO A NOT-FOR-PROFIT CORPORATION OR A FOR-PROFIT BUSINESS OR  
29 CORPORATE ENTITY THAT THE CHARTER SCHOOL WAS FORMED IN CONJUNCTION WITH.

30 S 2. This act shall take effect on the ninetieth day after it shall  
31 have become a law.